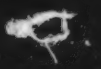
BECOMING A PARENT IN ALBERTA

What you need to know about human rights, maternity and parental leave, and benefits

Canada

Alberta Government



A joint publication of:
Alberta Human Resources and Employment
Human Resources and Social Development Canada
Service Canada
Alberta Human Rights and Citizenship Commission
(with funding from the Human Rights, Citizenship
and Multiculturalism Education Fund)

Aussi disponible en français sous le titre :
Devenir un parent en Alberta

For additional copies of this publication and to find out about copyright information, please call:

Alberta Human Resources and Employment
Phone (780) 427-3731 in Edmonton
To call toll-free in Alberta from outside Edmonton, first dial 310-0000

ISBN 0-7785-3317-4

© 2006, Government of Alberta, Human Resources and Employment

This material may be used, reproduced, stored or transmitted for non-commercial purposes. However, Crown copyright is to be acknowledged. It is not to be used, reproduced, stored or transmitted for commercial purposes without written permission from the Government of Alberta, Human Resources and Employment. This book is not for resale unless licensed with Government of Alberta, Human Resources and Employment.

106-06784/

TABLE OF CONTENTS

Introduction 2

Part 1: Working and expecting: 8
Your human rights related to pregnancy and childbirth

Part 2: Time away from work: 20
Maternity and parental leave and benefits

Part 3: Returning to work: 44
Ending maternity and parental leave and benefits

Part 4: Information and help 54

This publication discusses certain aspects of Government of Canada Employment Insurance legislation, Alberta *Employment Standards Code*, and Alberta human rights legislation. It does not offer legal advice or replace the relevant legislation. For information and help, please contact the appropriate organization as listed in Part 4.

Laws and regulations are constantly being updated. Be sure to contact the appropriate organization for the latest information.

INTRODUCTION

Are you a working Albertan who is about to become a parent? Maybe you're already a parent awaiting the arrival of another child and want to be sure you have the latest information. Or perhaps you are about to bring your newly adopted child into your home. Whatever your situation, you probably have questions about your entitlements, rights and responsibilities related to pregnancy, childbirth and maternity, and paternity and parental leave and benefits. These things can be complex and maybe a little confusing. By being well informed and up to date, you can make the best decisions for you and your family.

Each province and territory in Canada has its own rules regarding job protection during pregnancy, as well as maternity and/or parental leave and benefits. To help you learn more about the rules in Alberta, Human Resources and Social Development Canada (HRSDC), Service Canada, Alberta Human Resources and Employment (AHRE) and the Alberta Human Rights and Citizenship Commission (the Commission) have joined together to produce this booklet. It presents relevant information from each organization in one place.

What you'll find here

In the pages that follow, we:

- provide information about human rights protection for pregnant workers
- answer common questions about the entitlements, rights and responsibilities of working parents-to-be
- discuss leave that you may take for health reasons during pregnancy and childbirth
- explain the difference between maternity and parental **leave** and **benefits**
- explain how you apply for maternity and parental leave and benefits

Leave = Time off

Benefits = Money

This booklet provides an overview of important information from a variety of sources. It does not discuss individual cases and cannot confirm whether you are in fact eligible for something. Don't worry if you cannot find the information you are looking for here. There are people available to help you and answer your questions. *If you need more information or wonder about your own situation, please contact the appropriate organization listed in Part 4: Information and help.*

Becoming a parent is divided into four parts:

PART 1 Working and expecting:
Your human rights related to pregnancy and childbirth

PART 2 Time away from work:
Maternity and parental leave and benefits

PART 3 Returning to work:
Ending maternity and parental leave and benefits

PART 4 Information and help

Who does what?

Service Canada is the Government of Canada's service delivery network for the Employment Insurance (EI) program and you can apply for maternity and/or parental benefits through Service Canada.

Human Resources and Social Development Canada (HRSDC) is the federal department responsible for the policies relating to Employment Insurance and the *Canada Labour Code* (see page 56 for what the *Canada Labour Code* covers).

Alberta Human Resources and Employment (AHRE) looks after employment standards for the province of Alberta. AHRE provides information related to maternity and parental leave that is covered by Alberta's *Employment Standards Code*.

Alberta Human Resources and Employment, Workplace Health and Safety looks after health and safety standards for Alberta workplaces. AHRE provides information related to workplace standards covered by the *Occupational Health and Safety Act*. This legislation requires employers to ensure, as far as reasonably practical, the health and safety of their workers; and workers must cooperate with the employer in this task.

The **Alberta Human Rights and Citizenship Commission** is responsible for human rights legislation in Alberta. The *Human Rights, Citizenship and Multiculturalism Act* protects individuals from discrimination in certain areas (including employment), under specific grounds (including pregnancy). The Commission can provide information about rights and responsibilities related to pregnancy and childbirth under human rights law.

Stop and check...

Employment standards in your workplace may be covered by the *Canada Labour Code*.

Most businesses in Alberta—about 90%—are covered by Alberta's *Employment Standards Code*. Businesses and organizations such as banks and interprovincial trucking companies fall under the *Canada Labour Code*. This booklet does not discuss employment standards as set by the *Canada Labour Code*.

Please see Part 4 for more information.

You may be protected from discrimination by the *Canadian Human Rights Act*.

Most businesses in Alberta fall under the jurisdiction of Alberta's *Human Rights, Citizenship and Multiculturalism Act*. Businesses and organizations that are federal undertakings such as banks and Canada Post fall under the *Canadian Human Rights Act*. This publication does not discuss protection from discrimination that is offered under the *Canadian Human Rights Act*.

Please see Part 4 for more information.

How to use this booklet

We have presented information in the order in which you will likely be dealing with each issue. For example, while you are pregnant, you may be wondering about your rights in the workplace. As you move toward the end of your pregnancy or await the arrival of your adopted child, you may have questions about what kind of leave you can take and what financial benefits are available to you during that leave. Each section addresses a specific aspect of your journey toward becoming a parent. We have provided contact information in case you have questions or need help.

WORKING AND EXPECTING:

Your human rights related to pregnancy and childbirth

PART 1

This section provides an overview of your human rights as an employee who is pregnant and/or taking leave due to pregnancy or childbirth.

How does human rights law protect pregnant women from discrimination?

In Alberta, the *Human Rights, Citizenship and Multiculturalism Act* protects women from discrimination based on gender, including pregnancy. This law applies in many areas of life, including the workplace. This means your employer cannot discriminate against you because you are pregnant. Under Alberta's human rights law, employers cannot:

- create conditions that discriminate against a woman or send the message that she is unwelcome because of her pregnancy
- fire, lay off or demote a woman because she is pregnant
- deny a woman the right to request a leave due to pregnancy or childbirth
- deny a woman the right to decide when she will begin a leave for health reasons related to pregnancy or childbirth

- prevent a woman from using her sick leave benefit plan for the part of her leave that is due to the health-related consequences of pregnancy or childbirth
- deny a woman the use of any earned overtime or vacation time before, during, or immediately after she starts a leave due to pregnancy or childbirth if this option is available to other employees (If granting overtime or earned vacation time would cause the employer undue hardship, it may be acceptable for the employer to deny this use of earned overtime or vacation time.)
  See page 12 for an explanation of undue hardship.
- ask a woman to prepay her benefit premiums, or to pay her employer's share of premiums during the health-related part of her maternity leave

Human rights law protects pregnant women from discrimination in the workplace. Negative comments or reactions from customers or staff about your pregnancy are not valid reasons for your employer to reduce your hours of work or to fire, lay off, or demote you. Both the comments and any negative action your employer may take because of the comments could be considered discriminatory under human rights law. Contact the Commission for more information.

What is accommodation?

An important part of human rights law for pregnant workers is accommodation. Sometimes, a woman's pregnancy may prevent her from doing part of her job. If this is the case, human rights law requires an employer to try to modify the workplace—or make accommodations—so the employee can still continue to work without harming herself. Employers are expected to make an effort to the point of undue hardship to accommodate pregnant employees in the workplace.

Under current human rights law, employers must accommodate employees for the health-related consequences of their pregnancy, no matter how long they have worked for the employer. Employers do not have to provide any other non-health-related leave to employees simply because they are pregnant.

What is undue hardship?

There is undue hardship if accommodating a pregnant employee would be extremely difficult for an employer. For example, undue hardship could include extremely high financial costs or serious disruption to a business. Employers have a legal duty to take steps to accommodate individual needs to the point of undue hardship. To prove a claim of

undue hardship, employers must show that they would experience far more than an inconvenience. For more information about undue hardship, see the Commission's publication *Duty to Accommodate*.

What are some ways an employer can accommodate pregnant employees?

There are a number of ways to accommodate pregnant employees, including:

- changing a pregnant employee's job duties if her pregnancy prevents her from doing parts of her job. For example, a pregnant store clerk who for health reasons cannot lift more than ten pounds may not have to carry heavy boxes. Another employee may be able to do this task temporarily. The pregnant employee would then be expected to assume additional less physically demanding duties in exchange for not carrying heavy boxes.
- providing a flexible work schedule to accommodate time off for health-related appointments

How does accommodation work?

You and your employer should discuss how best to accommodate your pregnancy. Yes, employers are expected to be flexible when accommodating pregnant employees. But as an employee, you are also expected to cooperate when your employer makes an effort to accommodate you.

I am pregnant. Can hazards in the workplace affect my baby or me?

Employers must ensure the health and safety of workers as far as it is reasonably practical. Workers must also protect their own health and safety. For specific information on hazards, contact Workplace Health and Safety. *See Part 4 for contact information.* If you have concerns about any health effects to your unborn baby, you should contact your doctor.

How long can I keep working before I take leave due to pregnancy or childbirth?

You may work as close to your due date as you like, as long as your health allows it. Your employer cannot force you to begin leave due to pregnancy or childbirth earlier than you choose. The only exception is when you need accommodation because of your pregnancy and your duties cannot be modified to accommodate your pregnancy. If your employer can show that accommodating you would cause them undue hardship (such as excessive costs), then the accommodation may not be possible. If this happens, then you should be allowed to take any earned overtime, vacation leave and/or sick leave that are due to you.

Each woman's situation is unique. If you have questions about accommodation, sick leave or other issues related to human rights, please contact the Commission. *See Part 4 for contact information.*

Is illness during pregnancy a valid health-related reason for me to be absent from my workplace?

Yes. You may have a valid health-related reason to be absent from work. It may or may not be related to your pregnancy. Let's say you develop a pregnancy-related health condition such as high blood pressure or gestational diabetes. Or, you may need treatment for a reason unrelated to your pregnancy, for example, as the result of a car accident. In either case, if your employer has a sick leave or disability plan, you should be compensated in the normal fashion. You cannot be excluded from these benefits simply because you are pregnant. If your employer excludes you, it is considered discrimination on the basis of gender (pregnancy) under human rights law.

I'm sick during my pregnancy. I have earned paid sick leave from my job. Can my employer make me go on maternity leave and collect EI benefits instead of using my earned sick leave?

No. If you have earned paid sick leave from your employer and you become sick, your employer cannot stop you from using your paid sick leave, no matter when illness occurs before your baby is born. Say that for valid health reasons, you were unable to perform your work several weeks before your baby is born. You would give your employer

a medical certificate that shows you are unable to work up to your expected due date. You would first use your paid sick leave. Once your baby is born, if you qualify for *Employment Standards Code*-defined maternity leave and EI maternity benefits, you would then start your *Code*-defined maternity leave and collect EI maternity benefits.

I have some banked vacation and time in lieu of overtime. Can I use these before I go on maternity leave?

Yes. You may use banked lieu time, vacation time or any other earned time before your baby is born. Your employer must allow you to use these benefits unless doing so would cause an undue hardship for the business. Such a hardship could be that you are the only one who can complete an important project. Your employer may ask you to delay taking any earned vacation or overtime until the project is complete.

Because I do not have 52 weeks of consecutive employment with the same employer, I do not qualify for maternity leave, as defined by the *Employment Standards Code*. How much notice do I need to give my employer before I take a health-related leave due to pregnancy or childbirth?
See Part 2 for information about* Code-*defined maternity leave.

Under human rights law, you are expected to do your best to give reasonable notice to your employer that you may or will need a health-related leave from work due to pregnancy or childbirth. Human rights law does not require the notice to be in writing or to be a specific length of time in advance of the leave. However, it does have to be a reasonable time in advance, given your particular circumstances.

Do I need a doctor's note to take a health-related leave due to pregnancy or childbirth?

Because the leave is health-related, it is considered reasonable for your employer to request a doctor's note, especially if doctor's notes are normally required when employees are absent for medical reasons. The note may indicate when you are expected to be able to return to work or when you are next expected to see your doctor for an assessment.

If your situation changes, you must communicate with your employer about the change and any further requests you may have.

Will I get my job back after a health-related leave due to pregnancy or childbirth?

At all times your employer must accommodate a return to work unless it would create an undue hardship for the business. Your employer must place you back into the same position. If this poses an undue hardship, your employer must place you in another position if it is available and if the placement is reasonable in the circumstances.

Please see Part 2 for more detailed information on maternity and parental leave and EI benefits.

20

TIME AWAY FROM WORK:

Maternity and parental leave and benefits

PART 2

This part of the booklet has two sections. The first is an overview of your eligibility as an employee to take maternity and/or parental leave as described under Alberta's *Employment Standards Code*. The second section is an overview of your eligibility to receive Employment Insurance (EI) maternity and/or parental benefits from the federal government.

If you are covered by the Canada Labour Code, *please see Part 4 for more information.*

MATERNITY AND PARENTAL *LEAVE*

This section provides information on maternity and parental leave that is available to eligible employees under Alberta's *Employment Standards Code*. Alberta Human Resources and Employment (AHRE) is responsible for these employment standards.

Leave = Time off

What is maternity leave?

Under Alberta's *Employment Standards Code*, unpaid job-protected maternity leave, or time off from work, is available to eligible employees for a period before and after the birth of a child. Maternity **leave** is different from maternity **benefits**. We discuss benefits in the next section.

How do I qualify for maternity leave?

To qualify for maternity leave under the *Employment Standards Code*, you must be employed full-time or part-time by the same employer for at least 52 consecutive weeks. However, many employers, by policy or through collective agreements, provide maternity leave to employees who have worked less than 52 weeks. Check with your employer to find out what you are entitled to.

I haven't worked for the same employer for 52 consecutive weeks. Can my employer fire me because of my pregnancy?

No. Under human rights law, your employer cannot terminate your employment, lay you off, reduce your hours of work, or make you resign because of pregnancy or childbirth. This applies even if you have not worked for the employer for 52 consecutive weeks.

Can I take any kind of leave?

Human rights law requires your employer to accommodate the health-related consequences of pregnancy and childbirth, up to the point of undue hardship. So, even if you don't qualify for maternity or parental leave under the *Employment Standards Code*, you will be able to take sick (health-related) leave. Remember that you have to give reasonable notice. *See Part 1 for more detail about giving notice.*

If you are in this situation and need help, contact the Commissio: They will tell you how to work with your employer to accommodate your pregnancy and childbirth.

How much time can I take for maternity leave?
Under the *Employment Standards Code*, birth mothers may take up to 52 consecutive weeks of job-protected leave. This leave can be up to 15 weeks of maternity leave and up to 37 weeks of parental leave.

When can I begin my maternity leave?
You may begin maternity leave at any time within 12 weeks before your estimated due date. Once you give your employer the required written notice, you are entitled to begin maternity leave on the date indicated in the notice. The **latest** you may begin your maternity leave is the date of the birth of your child.

How much notice must I give my employer before starting maternity leave?

You must give your employer at least **six weeks' written notice** before the date you intend to start your leave. Your employer may request a medical certificate from you that confirms that you are pregnant and estimates the date of birth.

You may begin maternity leave without giving the necessary six weeks' notice if you have a health condition related to your pregnancy. You must then give your employer a medical certificate that confirms you are unable to work because of the health-related condition. Even if you did not give notice to begin with, you must give this certificate, including the estimated date of birth, to your employer **within two weeks** after stopping work and starting maternity leave. You are not required to specify a return date before going on leave. However, you may wish to do so.

Do I have to take maternity leave right after the birth of my child?

Yes. Under the *Employment Standards Code*, you must take at least six weeks of leave after the birth of your child. This is the health-related part of your leave. The only way you don't have to take the full six-week leave is if your employer agrees that you can return to work early. In this case, you must give your employer a medical certificate indicating that you will not endanger your health by returning to work.

What is parental leave?

Unpaid job-protected parental leave is available to birth mothers after maternity leave, and to birth fathers and adoptive parents following the birth or placement of a child.

How do I qualify for parental leave?

To qualify for parental leave under the *Employment Standards Code*, you must be employed by the same employer for at least 52 consecutive weeks. However, many employers, by policy or through collective agreements, provide parental leave to employees who have worked less than 52 weeks. Check with your employer to find out what you are entitled to.

If you are an adoptive parent, you can take parental leave regardless of the age of the child you have adopted.

How much time can I take for parental leave?

Parental leave can last up to 37 weeks.

When can I begin my parental leave?

If you are the birth mother, you may take the 15 weeks of maternity leave first and then begin your 37-week parental leave directly following the 15 weeks. This makes a total of 52 weeks of unpaid leave.

If you are a birth father or adoptive parent, you may begin parental leave within 52 weeks after the birth or placement of your child.

As a birth mother, am I required to give notice before starting parental leave?

For the birth mother, parental leave begins on the first day after maternity leave ends. You do not have to give your employer another six weeks' written notice to start parental leave.

As a birth father or adoptive parent, how much notice must I give my employer before starting parental leave?

You must give your employer at least **six weeks' written notice** before the date you intend to start your leave. If you cannot give this notice due to health-related reasons or circumstances related to an **adoption**, you would still be eligible for the leave. In these cases, you must give written notice to your employer as soon as possible.

If you intend to share parental leave, both you and the other parent must advise your respective employers in writing at least six weeks before you intend to start your leave. If you both work for the same employer, your employer is **not** required to give you both leave at the same time.

When must I complete parental leave?

You must complete parental leave within 52 weeks of the date a baby is born or an adopted child is placed with you.

Parental leave may be taken by one parent or shared between two parents. **The total combined parental leave cannot exceed 37 weeks.**

What are some ways to take maternity and/or parental leave?

Only birth mothers may take maternity leave. However, **parental** leave may be taken by one birth or adoptive parent or shared between two birth or adoptive parents. The total combined parental leave cannot exceed 37 weeks. If you are the birth mother and are taking both maternity leave and parental leave, you must take the leaves consecutively.

You can use maternity and parental leave a number of different ways. Look at your own situation and entitlements and decide what works best for you. If you need help figuring out how to use your leave, contact your local Alberta Human Resources and Employment (AHRE) office. *See Part 4 for contact information.*

Here are some examples of maternity and parental leave:

- Indira takes the full 52 weeks of leave, consisting of 15 weeks of maternity leave and 37 weeks of parental leave. Her husband John does not take any leave.
- Rita decides to go back to work after her 15-week maternity leave is finished. Her partner, Antonio, checks with his employer and decides to take the full 37 weeks of parental leave himself.
- Chris takes the full 15-week maternity leave, followed by only 7 weeks of parental leave before going back to work. Her partner, Terry, takes the remaining 30 weeks of parental leave.
- Maureen and Bill have just adopted a five-year-old. They take parental leave at the same time. They each take 18 weeks at the same time. Maureen takes one extra week herself while Bill goes back to work. Their total combined leave is 37 weeks, the limit for parental leave.

Employee benefit plans

Some employers offer their employees benefit plans that help pay for things like prescription drugs, dental care, physiotherapy or extra medical expenses. The following questions and answers deal with these benefit plans.

I have an employee benefit plan. What happens to the plan during maternity or parental leave?
Benefit plans differ from one employer to another. Some employers administer their own sick leave plans, such as salary continuance plans, and others have short-term or long-term disability insurance plans administered by insurance companies. Your employer must tell you what benefit plans are available to you and how to apply for them. Whatever your employee benefit plan is, it should not discriminate against you because you are taking leave due to pregnancy or childbirth or parental leave.

My employer pays my benefit premiums. What happens while I'm on leave?

Under the law in Alberta, your employer must continue to pay employee benefit premiums during the health-related portion of your leave due to pregnancy or childbirth if they normally pay for employee benefit premiums when their employees are sick. Your employer can ask you to provide relevant information on your health-related condition to confirm you are under treatment, as in any other health-related absence.

If an employer offers sick leave benefits to employees during other types of leave (for example, educational leave or sabbaticals), they should also pay these benefits to employees on parental leave.

I pay all or part of my employee benefit premiums. What happens during my leave?

If you pay all or part of your employee benefit premiums, you are responsible for continuing to pay your portion of those premiums for the time you are on leave due to pregnancy or childbirth. If you are pregnant, your employer cannot make you prepay these premiums. You are also not required to pay the employer portion during the valid **health-related** part of the leave due to pregnancy or childbirth. Normally, you and your employer continue to pay the same portions that you each paid while you were working, following the same schedule of payments.

Maternity leave is a combination of **health-related** and **voluntary** leave. The health-related part of maternity leave is where the woman's health condition meets the employer's normal rules for being away from work because of health. The rest of her maternity leave is voluntary leave.

If you decide to maintain some or all of your benefits while on the **voluntary** part of your maternity leave or parental leave, your employer could require you to pay both the employer and employee portions of the premiums. Your employer could do this if it normally requires all employees who decide to maintain employee benefits while on other types of voluntary leave to pay both the employee and employer portions of the premium.

What happens to my employee benefits if I get sick?
The answer to this question depends on your individual situation. Please call the Commission for an individual assessment.

Benefit plans differ between employers. Check with your employer for information about your own benefit plan. If you are covered by a collective agreement, you may also check with your union.

Maternity and Parental Benefits

$

This section provides information on maternity and parental Employment Insurance (EI) benefits that are available from Service Canada.

There may be a period at the beginning of your maternity leave when you don't receive any EI benefits. If EI benefits are going to be an important part of your income, you may want to plan your finances accordingly.

Benefits = Money

What are EI maternity benefits?
Maternity benefits are a form of financial support available to eligible employees who have paid Employment Insurance (EI) premiums.

How do I qualify for EI maternity benefits?
You must be a birth mother and have accumulated 600 insured hours within the last 52 weeks or since your last claim before you can receive benefits.

How many weeks of EI maternity benefits could I receive?
If you qualify, you could receive up to 15 weeks of EI maternity benefits.

What are EI parental benefits?
Parental benefits are a form of financial support available to eligible employees who have paid EI premiums.

How do I qualify for EI parental benefits?
You must be a birth mother, birth father or an adoptive parent and have accumulated 600 insured hours within the last 52 weeks or since your last claim before you can receive benefits.

How many weeks of EI parental benefits could I receive?

If you are a qualifying birth mother, you may collect 15 weeks of maternity benefits first, and then collect parental benefits for 35 weeks. This makes a total of 50 weeks of EI benefits.

If you are a birth father or adoptive parent who qualifies for parental benefits, you could receive up to 35 weeks of EI parental benefits. You can also share these benefits with the other parent. Whatever you choose, the total payments cannot exceed a maximum of 35 weeks.

How do I apply for EI benefits?

To receive maternity and/or parental benefits, you must complete an EI application online or in person at your local Service Canada office located in a Canada-Alberta Service Centre.

Please see Part 4 for contact information.

When should I apply for EI benefits?

You should apply for EI maternity and/or parental benefits once you've stopped working and you have obtained your Record(s) of Employment (ROE) from your employer. If you haven't received your ROE two weeks after you've stopped working, you should apply for benefits and drop off your ROE at your nearest Service Canada office once it's received. You must apply no later than four weeks after your last day worked.

Apply for your EI benefits as soon as you have stopped working. Be sure to include all the information with your application or your payment may be delayed.

When you are applying for EI maternity benefits, you can apply for EI parental benefits at the same time. If you are the birth father or adoptive parent, and you plan on collecting EI parental benefits, you may apply for the benefits any time after the birth or placement of your child but should take into account the fact that parental benefits are payable within the 53 weeks following the child's birth or placement.

How much will I receive in EI benefits?

The basic benefit rate is 55% of your average insured earnings up to a maximum amount per week.

- You could receive a higher benefit rate if you are in a low-income family. You may also be eligible for the Child Tax Benefit and federal subsidies after the birth or the placement of your child.
- Some employers may provide top-ups or extra money in addition to EI maternity and/or parental benefits.

Check with your employer for information about your own situation.

What do I need to include with my EI application?

To apply for EI, you will need to provide **all** of the following information:

- your Social Insurance Number (SIN)
- personal identification such as your driver's license, birth certificate or passport if you are applying in person
- a Record of Employment (ROE) from each job you held during the previous 52 weeks *(get this from your employer)*
- your gross salary within the previous 52 weeks, income for your last week of work (from Sunday to the last day worked), gross amounts received or to be received (vacation pay, severance pay, pension, pay in lieu of notice or layoff) and other monies
- name and SIN of the other parent when applying for parental benefits
- bank account information, or preferably a voided cheque, so payment of benefits can be made directly to your current bank account

When applying for EI parental benefits, you must sign a statement declaring your newborn's date of birth. For an adoption, you must sign a statement declaring your child's

date of placement, as well as the name and address of the adoption authority.

Will I have a waiting period before my EI payments begin?

Yes. In most cases, there is a two-week waiting period before EI benefits start being paid. As with other types of insurance, this waiting period is a type of deductible.

The two-week waiting period for EI may be waived or deferred, but only under certain circumstances:

- An employee receives sick leave pay from an employer following the last day worked. For example, Kelsey takes a day off work because she is ill. She visits her physician who tells her that there is a problem with her pregnancy. She must go into hospital the next day and have her baby. Kelsey calls in sick the next day and gives birth that afternoon. She then begins maternity leave and starts collecting EI benefits. Because Kelsey was on sick leave directly before her maternity leave, she does not have to wait two weeks before collecting EI maternity benefits.
- When both parents share parental benefits, only one waiting period needs to be served. For example, if the first parent has already served a two-week waiting period before receiving **maternity** benefits, the waiting period for the second parent claiming **parental** benefits will be deferred. If the second parent subsequently claims EI regular benefits or sickness benefits after parental benefits, the two-week waiting period would then need to be served.

Taking paid vacation time before collecting maternity benefits can affect your claim. Please contact **Service Canada** for information about your EI claim.
See Part 4 for contact information.

When do I receive my first EI payment?

If you qualify for benefits and have provided all the required application and bank information, your EI payment will normally be issued within 28 days from the start date of your claim. This means you should receive your first cheque within 28 days of your last day worked if you apply as soon as you have stopped working. If you do not qualify, Service Canada will tell you why within the 28 days.

If you don't qualify for EI benefits, you may be eligible for provincial financial assistance. Contact Alberta Human Resources and Employment (AHRE) for more information.

When can I start collecting EI maternity benefits?

As a birth mother, you can receive up to 15 weeks of maternity benefits. You can start collecting as early as 8 weeks before the expected birth date. You must stop collecting maternity benefits 17 weeks after the actual or expected birth date, whichever is later.

When can I start collecting EI parental benefits?

EI parental benefits for birth parents are payable from the child's birth date. If you are a birth **father**, you could start collecting benefits then. If you are the birth **mother**, you will collect EI maternity benefits first. Whatever you choose, you can collect a maximum 35 weeks of EI parental benefits between the two of you.

If you are an adoptive parent, you can start receiving benefits from the date your child is placed with you.

When must I finish collecting parental benefits?
You must finish collecting parental benefits within 52 weeks of the date your baby is born or the date an adopted child is placed with you.

What if I give birth to more than one child?
The weekly EI payment and the number of weeks paid are the same regardless of how many children are born.

If you are facing an unusual situation because your newborn or newly adopted child is ill, or you have recently received EI sick benefits or compassionate care benefits, please contact Service Canada for information about your EI claim.
See Part 4 for contact information.

What if I work while I'm getting EI maternity or parental benefits?
If you choose to work while receiving EI **maternity** benefits, your earnings will be deducted dollar for dollar from your benefits.

While you are receiving EI **parental** benefits, it is possible to earn up to $50 a week or 25% of your weekly benefits, whichever is higher. Any monies earned above that amount will be deducted from your benefits, dollar for dollar.

Whatever the situation, you must report all earnings while you're collecting EI maternity or parental benefits.

> Your EI payment is taxable income, which you must report on your next income tax return. This means that provincial and federal tax will be deducted.

Can I still receive EI benefits if I'm out of the country?
Yes, you can still collect EI maternity or parental benefits if you're outside Canada. However, you must let your local Service Canada office know where you are.

After submitting my initial claim, do I have to keep submitting reports to receive EI benefits?
You do not have to submit claimant reports in order to receive your EI maternity or parental benefits. In this case, you sign a declaration of exemption form when you apply for EI benefits.

However, if you work part-time while you are receiving EI maternity or parental benefits, you must submit claimant reports. These reports show how many hours you worked and how much money you earned.

This booklet is intended to provide general information only. If you have any questions about EI maternity and/or parental benefits that are not answered here, contact your local Service Canada office.
See Part 4 for contact information.

Returning to Work:

Ending maternity and parental leave and benefits

PART 3

This section provides information on ending maternity and/or parental leave and terminating EI benefits.

Will I get my job back after my maternity or parental leave?

Your employer must put you back in the same position at the same salary, or provide alternate work of a comparable nature with equivalent pay. If the business or a portion of it has been suspended or discontinued during your maternity leave, you have priority for getting your job back if the business starts up within 12 months after the end of your leave.

Could my pay or benefits be reduced once I go back to work?

Not usually. But this could happen if your employee group's wages and benefits are reduced as part of a reorganization plan while you're on leave. Once you return to work and are reinstated in that group, you will receive no more than the wages and benefits that you would normally have received if you had actually been at work during the

reorganization. Likewise, if your group's wages and benefits are increased during your leave, you will be entitled to the increases once you return to work.

Can my maternity and/or parental leave be extended?

Alberta's *Employment Standards Code* provides for 15 weeks of maternity leave and 37 weeks of parental leave with no provisions for extensions. While your employer is not obliged to do so, it is up to them to decide whether to extend your leave should unforeseen circumstances arise. Such circumstances could include a sick child or difficulty in finding child care.

Human rights protection once you have returned to work

Human rights law also covers certain situations for employees returning to work after childbirth. For example, employers have a responsibility to accommodate your needs related to breastfeeding, up to the point of undue hardship. Human rights law also requires certain accommodations to be made for working parents with sick babies. This is covered under the family status protection offered by Alberta's *Human Rights, Citizenship and Multiculturalism Act.* For more information, contact the Commission.

How much notice do I have to give to end my maternity or parental leave and return to work?

Under Alberta's *Employment Standards Code*, you must give your employer at least four weeks of **written** notice before the date you intend to return to work. You must also give four weeks of **written** notice if you intend to change your return date, for example, return to work a week or two early. You must give the notice at least four weeks before the end of your leave.

Your employer does not have to put you back in your job until four weeks **after** they receive your written notice. If you fail to give notice, or fail to report to work the day after your leave ends, your employer is under no obligation to put you back in your job. The exception to giving four weeks' notice is if there have been unforeseen or unpreventable circumstances like a death in the family or a serious illness. You should make every effort to let your employer know that you cannot go back to work as you intended.

What will happen to my EI benefits if I return to work early?

If you have returned to work—early or otherwise—inform Service Canada as soon as possible. Service Canada will stop paying you benefits.

What if I am ill and unable to return to work after my maternity and/or parental leave?

The answer to this question depends on your individual situation. Please call the Commission for an individual assessment.

What if I decide not to return to work?

It is your choice whether or not to return to work after your maternity and parental leave. If you do not intend to return to work after your leave ends, you must give at least four weeks' **written** notice to your employer.

If I decide not to return to work, do I have to pay back my EI maternity and/or parental benefits?

Whatever you decide, you do not have to repay your EI maternity and parental benefits. You cannot collect any further EI benefits.

I received a supplemental or "top-up" payment to help make up for lost income during my leave. What happens to these payments if I don't return to work?

Check with your employer if you do not return to work. Their plan may require you to pay back the supplement.

To Do List

1 Working and expecting: Your human rights related to pregnancy and childbirth

If your pregnancy makes it difficult for you to carry out certain job duties, you will need to:

- ❑ Talk to your employer about your medical needs and how your employer could accommodate your pregnancy. For example, if you can no longer lift heavy boxes, ask if someone else can lift them. In exchange, you offer to take on other tasks.

2 Time away from work: Maternity and parental leave and benefits

Entitlements for maternity and parental leave and benefits

		Maternity	Parental	Provided by
Leave		15 weeks of job-protected leave	37 weeks of job-protected leave	Your employer
Benefits		15 weeks of benefits	35 weeks of benefits	Service Canada

Before you go on maternity or parental leave as defined by the *Employment Standards Code*, you will need to:

- ❑ Give written notice to your employer at least six weeks before the date you intend to start your leave.
- ❑ Check with your employer to see how employer-sponsored benefits are covered while you are on leave.

In order to receive EI maternity or parental benefits, you will need to:

- ❑ Apply for benefits as soon as you have stopped working **and**

Provide **all** of the following information:

- ❑ your Social Insurance Number (SIN)
- ❑ personal identification such as your driver's license, birth certificate or passport if you are applying in person
- ❑ a Record of Employment (ROE) from each job you held during the previous 52 weeks *(get this from your employer)*
- ❑ your gross salary during the previous 52 weeks, income for your last week of work (from Sunday to the last day worked), gross amounts received or to be received (vacation pay, severance pay, pension, pay in lieu of notice or layoff) and other monies
- ❑ name and SIN of the other parent when applying for parental benefits
- ❑ bank account information, or preferably a voided cheque, so payment of benefits can be made directly to your bank account

If you do not qualify for maternity leave under Alberta's *Employment Standards Code*, you can still take sick leave related to pregnancy and childbirth (as provided under human rights law). In this case, you must:

- ❑ Give your employer reasonable advance notice of the date your doctor advises you to leave work.

3 Returning to work: Ending maternity and parental leave and benefits

If you intend to return to work after maternity or parental leave, you will need to:

- ❑ Give your employer written notice at least four weeks before you intend to return to work.

If you do not **intend to return to work after maternity or parental leave, you will need to:**

- ❑ Give your employer written notice at least four weeks before your leave ends.
- ❑ Check with your employer to see if you have to pay back any top-up payments or supplements you may have received during your leave.

If you decide not **to return to work after your EI maternity or parental benefits have ended, you will need to:**

- ❑ Do nothing. You do not have to pay the benefits back even if you decide not to return to work.

84

Information and Help

PART 4

This booklet provides general information only. Your situation and circumstances are as individual as you are. If you have questions or need more information or help, contact one of the organizations listed below.

Service Canada

For information on Employment Insurance (EI) maternity and parental benefits, including questions about whether you qualify, please contact:

Service Canada Employment Insurance:
Phone toll-free 1-800-206-7218
www.servicecanada.gc.ca

Other useful toll-free numbers for parents:

- Canada Education Savings Grants 1-888-276-3624
- National Child Tax Benefit 1-800-387-1193
- For information on Canada's Labour Code, see page 56-57.

Employers covered by the Canada Labour Code

Most businesses in Alberta—about 90%—are covered by the provincial *Employment Standards Code*. The other 10% fall under the *Canada Labour Code*. You are covered by the *Canada Labour Code* if you work in a company or business that:

1. **performs a function or duty on behalf of the Government of Canada. This includes:**
   - most federal Crown corporations and federal Special Operating Agencies
   - private businesses which are necessary for the operation of a federal act
2. **is a federal undertaking or business. Federal undertakings or businesses include:**
   - marine shipping services such as:
     - the operation of ships anywhere in Canada
     - a line of ships or a ferry service extending beyond the borders of a province, or of Canada
     - ports
   - air transportation, including:
     - airports and aerodromes
     - airlines

- railways
- road transportation (crossing provincial or international borders)
- canals, pipelines, tunnels and bridges (crossing provincial borders)
- telephone, telegraph and cable systems
- radio and television broadcasting (including cablevision)
- banks
- grain elevators and feed and seed mills
- uranium mining and processing
- businesses dealing with protection of fisheries as a natural resource
- many First Nations activities

For information on maternity and parental leave that is covered by the *Canada Labour Code*, please contact:

Human Resources and Social Development Canada
Phone toll-free 1-866-713-4397
www.hrsdc.gc.ca

Alberta Human Resources and Employment

Employment Standards staff administer the *Employment Standards Code* and *Regulation*, which establish minimum employment standards for employers and employees in Alberta's workplaces. These minimum standards include the payment of earnings, overtime pay, and maternity and parental leave. Employment Standards provides telephone counselling and educational program services. It also investigates and settles employee complaints where employers and employees are unable to resolve their dispute.

An employee complaint under the *Employment Standards Code* must be filed within six months of the employee's last date of employment.

For information on maternity and parental leave covered by the *Employment Standards Code*, including questions about whether you qualify, please contact:

Alberta Human Resources and Employment
Phone (780) 427-3731 in Edmonton
To call toll-free in Alberta from outside Edmonton, first dial 310-0000.
Toll-free TTY service in Alberta for persons who are deaf or hard of hearing:
1-800-232-7215
www.gov.ab.ca/hre/employmentstandards

For information on income support programs, please call the Income Support Contact Centre: 1-866-644-5135 (toll-free outside of Edmonton) or 644-5135 in Edmonton. Inquiries may also be e-mailed to ISCC@gov.ab.ca.

For information on workplace health and safety covered by the *Occupational Health and Safety Act*, contact the Workplace Health and Safety Contact Centre: 1-866-415-8690 or 415-8690 in Edmonton www.whs.gov.ab.ca

Alberta Human Rights and Citizenship Commission

The Alberta Human Rights and Citizenship Commission is an independent commission of the Government of Alberta reporting through the Ministry of Community Development. The Commission's mandate is to foster equality and reduce discrimination. It provides public information and education programs, and helps Albertans resolve human rights complaints.

For information about rights and responsibilities related to pregnancy, childbirth and adoption under human rights law, please contact:

Alberta Human Rights and Citizenship Commission
Northern Regional Office (Edmonton)
Confidential Inquiry Line (780) 427-7661
Southern Regional Office (Calgary)
Confidential Inquiry Line (403) 297-6571
To call toll-free in Alberta from outside Edmonton or Calgary, first dial 310-0000.
TTY service for persons who are deaf or hard of hearing:
Edmonton (780) 427-1597
Calgary (403) 297-5639
Toll-free within Alberta 1-800-232-7215

www.albertahumanrights.ab.ca
E-mail humanrights@gov.ab.ca

A complaint must be made to the Alberta Human Rights and Citizenship Commission within one year after the alleged incident.

For more information about human rights issues that relate to pregnancy, childbirth, and adoption, please refer to the Alberta Human Rights and Citizenship Commission's bulletins:

- *Rights and responsibilities related to pregnancy, childbirth and adoption*
- *Duty to accommodate*

You can get both publications at www.albertahumanrights.ab.ca. You can also request a print version from the Commission.

Employers covered by the *Canadian Human Rights Act*

Most businesses in Alberta are covered by the *Human Rights, Citizenship and Multiculturalism Act*. You are likely covered by the *Canadian Human Rights Act* if you work for one of the following companies or businesses:

- federal departments, agencies and Crown corporations
- Canada Post
- chartered banks
- airlines
- television and radio stations
- interprovincial communications and telephone companies
- most (but not all) interprovincial trucking companies

- buses and railways that travel between provinces
- other federally regulated industries, such as certain mining operations

For information about the *Canadian Human Rights Act*, please contact:

Canadian Human Rights Commission
Alberta and Northwest Territories office
Telephone (780) 495-4040
Toll-free 1-800-999-6899
TTY 1-888-643-3304
www.chrc-ccdp.ca

For copies of Alberta's provincial human rights, employment standards, and workplace health and safety legislation, please visit:
Alberta Queen's Printer
www.qp.gov.ab.ca/catalogue

You will find an electronic copy of the *Employment Standards Code* and the *Human Rights, Citizenship and Multiculturalism Act*. You can also buy print versions from the Alberta Queen's Printer. You can place your order online or by calling (780) 427-4952 in Edmonton or (403) 297-6251 in Calgary. To call toll-free from other Alberta locations, first dial 310-0000.

FEEDBACK

We'd like to hear from you...

Date _____

Did you find the information in this publication useful?

_____

In what way? _____

_____

_____

How could we improve it? _____

_____

_____

Do you have any suggestions for other products that would be of value to you? _____

_____

Please return this form to:

Alberta Human Resources and Employment
Workplace Investments, Employment Standards
8th Floor, 10808 - 99 Avenue
Edmonton, AB T5K 0G5
Fax: (780) 422-8944

Canada

Alberta
Government

NCN 0919 (2006/03)